

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 09-1050

Gerry C. DuBose,

Appellant,

v.

Jennifer L. Carey; John D. Kelly; Hanft,
Fride, O'Brien, Harries, Swelbar &
Burns, P.A.,

Appellees.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: June 4, 2009
Filed: June 8, 2009

Before RILEY, SMITH, and BENTON, Circuit Judges.

PER CURIAM.

Nearly two years after this court affirmed the adverse judgment in Gerry DuBose's 42 U.S.C. § 1983 action against Jennifer Carey, John Kelly, and their law firm, see DuBose v. Carey, 204 Fed. Appx. 579 (8th Cir. Nov. 9, 2006) (unpublished per curiam), DuBose filed a motion for relief under Federal Rule of Civil Procedure 60(b), restating theories he had advanced earlier without success. The district court¹

¹The Honorable Joan N. Ericksen, United States District Judge for the District of Minnesota.

denied DuBose's motion, finding it untimely and without merit. He appeals, and, following careful review, we find no abuse of discretion. See Middleton v. McDonald, 388 F.3d 614, 616 (8th Cir. 2004) (standard of review).

Accordingly, we affirm for the reasons stated by the district court. See 8th Cir. R. 47B.
